

REMARKS

The application is believed to be in condition for allowance at this stage of prosecution.

Claims 1-4, 9, 10, 12, 13 and 17 stand rejected under 35 USC 102(b) as being anticipated by French patent document FR 2,731,496 (FR '496). This rejection in paragraphs 3 and 4 seems to be in contradiction with the conclusion in response to arguments presented by the applicant in paragraph 13 where it is stated that the rejection of claims 1-4, 9, 10, 12, 13 and 17 stand rejected under 35 USC 103(a) as being unpatentable over French patent document FR 2,731,496. Applicant will therefore treat the rejection as being under 35 USC 102(b) but will also take into consideration the possibility that there is also a rejection though not formally set forth under 35 USC 103(a).

Claim 1 recites a device for connecting at least two lengths of trunking adapted to bear against a support surface. In this device, the backs of the trunking base sections have substantially plane rear faces adapted to bear against the support surface. The base section has tongues adapted to bear elastically on the rear face and the opposed top faces of the corresponding back. The rear tongues are substantially flat and have a thickness from about 0.2 mm to about 1 mm. The rear tongues are accommodated rearwardly beyond the substantially plane rear faces. This combination of features of claim 1 is not taught or suggested by FR '496.

Specifically, applicant accepts that FR '496 can be interpreted as disclosing trunking base sections having substantially rear plane surfaces adapted to bear against the support surface and also tongues adapted to bear on the rear and top faces of the back. The tongues in FR '496 do not have the

thickness claimed, namely about 0.2 mm to about 1 mm but as noted in the amendment of October 27, 2003, about 2 mm. Moreover, the rear tongues in FR '496 are not accommodated rearwardly beyond the substantially plane rear faces but necessarily inwardly of the plane rear faces in that they are accommodated in the recesses which themselves are located inwardly of the plane rear faces of the trunking base section.

In view of the foregoing, claim 1 cannot possibly be anticipated by FR '496 under 35 USC 102(b) in that there are significant differences between claim 1 and the disclosure of FR '496. Moreover, claim 1 is not taught or suggested by FR '496.

Applicant cannot agree with the statement made at the top of page 3 that [t]he rear tongues ... have a thickness from about 0.2 mm to about 1 mm. This is not disclosed in FR '496 and as noted in the response of October 27, 2003, such tongues have a thickness of about 2 mm which is clearly outside the range recited in claim 1.

Second, applicant cannot agree with the statement in the same paragraph of the top of page 3, that the rear tongues in FR '496 are accommodated rearwardly beyond the substantially plane rear face. Indeed, the rear face of the trunking base section which is adapted to bear against the support surface is defined by the rearmost portions of the trunking base section as best illustrated in Fig. 1 of FR '496. This surface is defined by a plurality of longitudinal sections interrupted by the recesses 14. When the tongues 25 are received in the recesses 14, those tongues are located inwardly of the rear face of the trunking section which is adapted to bear against the support surface, that is they are accommodated in the recesses 14. In this respect, it is not possible to consider the recesses 14 as the substantially plane rear face which is adapted to bear against the support surface since the recesses 14 are

not adapted to bear against the support surface but all is going to be set back away from the support surface.

The Applicant now refers to the response to arguments made in the amendment of October 27, 2003, in particular paragraph 11.

The examiner states that "[t]he Applicant argues that FR '496 fails to disclose the substantially rear face has to be in contact with the support surface [because it has] the recesses provided to receive the tongues". This argument is not made by the applicant. Indeed, the rear face of FR '496 can be seen to define a planar rear surface adapted to bear against a support surface. This planar rear surface, as noted above, consists of the longitudinal sections of the trunking base section interrupted by the recesses 14.

While the backs of the trunking base section in FR '496 will be in contact with the support surface, that is not the case for the inwardly set back walls of the recesses.

The Examiner indicates that the claims cannot be modified to include the limitation that the entire substantially rear face can be in contact with the support surface. What is claimed is that the rear face of the trunking base section are substantially plane and they are adapted to be in contact with the support surface. The fact that when the tongues are in place that substantially plane rear face immediately overlying the tongues will not be in contact with a support surface is beside the point and is not sought to be recited in claim 1.

The applicant also disagrees with the contention in paragraph 12 concerning the dimensional features of claims 1, 17 and 18. The argument here appears to be one of obviousness and not anticipation and therefore

examiner appears to acknowledge that claim 1 is indeed not anticipated by FR '496.

The examiner urges that FR '496 -which applicant previously acknowledged was fabricated with rear tongues having a thickness of about 2 mm- meets the [dimensional] limitation of claim 1 that recites "having a thickness of 0.2 mm to about 1 mm". This contention is based on an unsupported interpretation of the word "about" in claim 1 and specifically about 1 mm. First, it is unacceptable to interpret one word, i.e. "about" in this phrase out of the context which is "from about 0.2 mm to about 1 mm". In this context, "about 1 mm" cannot be anticipated by "about 2 mm", nor does the "about 2 mm" of the prior art in the context of the prior art suggest reducing that thickness to about 1 mm. As noted in the previous responses to official letters, one skilled in the art would have not no reason to reduce the thickness of about 2 mm to the claimed range "from about 0.2 mm to about 1mm" since the only effect on the prior art would have been to substantially weaken the mechanical strength of the tongues and also limit their effectiveness since there would have been loosely accommodated in the recesses owing to the reduced thickness of the tongue compared to the depth of the recess. Thus, the prior art does not disclose the claimed range from about 0.2 mm to about 1 mm , since about 2 mm is outside the range and one skilled in the art had no motivation to reduce this thickness in the context of the FR '496 disclosure.

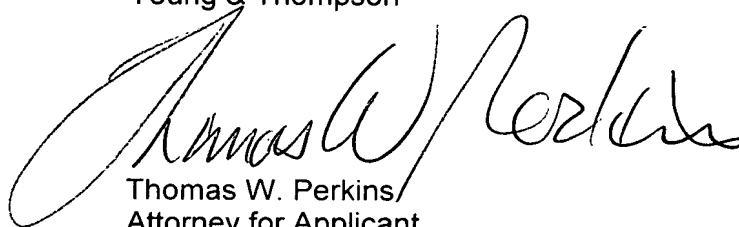
Moreover, this claimed feature cannot be considered on its own but in combination with the requirement that the tongue be accommodated between the planar rear face and the support surface where the reduction of thickness enables the recess otherwise necessary to accommodate the tongues be eliminated.

In view of the present remarks, reconsideration and allowance are respectfully requested.

In the event that there are any questions relating to this amendment or to the application in general, the Examiner is requested to contact the undersigned attorney by telephone to expedite further prosecution.

Respectfully submitted,

Young & Thompson

A handwritten signature in black ink, appearing to read "Thomas W. Perkins". The signature is fluid and cursive, with a large initial "T" and "P".

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